

HB 2816 -- 21ST CENTURY GRID MODERNIZATION AND SECURITY ACT

SPONSOR: Miller

This bill modifies provisions relating to ratemaking for public utilities.

FUEL ADJUSTMENT (Section 386.266, RSMo)

Currently, electrical corporations may make an application to the Public Service Commission to approve rate schedules authorizing interim energy charges. The bill authorizes rate schedules to provide for adjustments reflecting all transmission charges and transmission revenues.

21ST CENTURY GRID MODERNIZATION AND SECURITY ACT (Sections 393.1500-393.1575)

The bill establishes the 21st Century Grid Modernization and Security Act.

CAPITAL INVESTMENT PLAN & VENDOR QUALIFICATION PROCESS (Section 393.1515)

Electrical corporations must file with the Public Service Commission a five-year capital investment plan on February 28 of each year if the electrical corporation participates in performance-based ratemaking. The plan must also include a specific capital investment plan for the first year of the five-year plan.

Upon submitting such investment plan to the Public Service Commission, the electrical corporation must hold a public meeting to answer questions and receive feedback on the plan. After feedback is received, the electrical corporation may file a notice with the Commission to make modifications to the investment plan. The electrical corporation's investment plan must be publicly available. The submission of the plan does not affect the Public Service Commission's authority to grant or deny any certificate of convenience and necessity. Each participating electrical corporation must establish a process to qualify third party vendors that bid to provide services, or that may bid on planned electrical distribution construction and maintenance projects based upon specified criteria. Such process must be established within nine months, and be utilized to qualify a vendor or a competitive bid process for projects estimated to cost more than \$100,000. The Public Service Commission has the authority to review the electrical corporation's vendor qualification process, and prepare required reports for the General Assembly on such process.

RETURN ON EQUITY (Section 393.1520)

If an electrical corporation elects to participate in performance-based ratemaking, the electrical corporation's return on equity is set at 9.45%, adjusted to reflect U.S. Treasury Bond yields. The electrical corporation's return on equity may then be increased or decreased up to 0.20% in the electrical corporation's annual reconciliation based upon performance metrics. The Public Service Commission has the authority to replace any one of a participating electrical corporation's performance metrics by issuing a Commission order.

PERFORMANCE-BASED RATEMAKING (Section 393.1525)

An electrical corporation may become a participating electrical corporation seeking to recover its cost of service through performance-based rate tariffs by filing such tariffs with the Public Service Commission. An electrical corporation participating in performance-based ratemaking is referred to as a "participating electrical corporation." The Public Service Commission approving a participating electrical corporation's performance-based rate tariffs must specify the cost and revenue components of rates, with specificity so that such rates may be updated annually to reflect the electrical corporation's cost of service. The Public Service Commission may approve adjustments to the performance-based rate tariffs if the Commission finds that the tariffs do not meet legal requirements, or seek to recover imprudently incurred costs.

Electrical corporations serving more than 200,000 Missouri customers that recovers fuel and purchased power costs under the fuel adjustment clause must instead recover the costs through its performance-based rate tariff. Participating electrical corporations serving less than 200,000 Missouri customers may continue to recover fuel and purchase power costs through the fuel adjustment clause without periodic general rate filings to retain the fuel adjustment clause until five years after the participating electrical corporation terminates its participation in performance-based ratemaking. If a participating electrical corporation filed tariffs with the Public Service Commission prior to the effective date of the bill, and the electrical corporation files performance-based ratemaking tariffs, previous tariffs must be withdrawn when the electrical corporation makes an initial performance-based rate tariff filing.

Performance-based rates must be applicable to all customers, except aluminum smelting facilities, and performance-based rate tariffs must adhere to specified requirements. Certain ratemaking adjustments must include recovery of regulatory assets and return

of regulatory liabilities, recovery of specified amounts amortized, establishment of rates based on actual billing determinants allowing the electrical corporation to use weather-normalized billing determinants, recovery of nuclear refueling costs, interest accrued on customer deposits, an estimate of revenue to be received to offset the participating electrical corporation's revenue requirement, recovery of any forgone margin as calculated in this bill, allocation of common costs, adjustments to the electrical corporation's FERC Form 1 information as applicable, pension expense and other post-employment benefits, a 1% annual operating expense additive, closure of a generating plant, adjustments that reflect return on rate base, depreciation, and amortization expense and income taxes, adjustments necessary to correct errors in the FERC Form 1 or the proposed revenue requirement, and must provide for annual reconciliations. Certain specified items must be excluded from recovery under performance-based ratemaking. Upon a participating electrical corporation's initial performance-based rate tariff filing, the Public Service Commission must initiate a docket to review such filing and must enter an order approving, or approving as modified, such tariff within 244 days. If an electrical corporation makes its first performance-based rate tariff filing after April 1 but before May 1, the Commission must expedite such filing to ensure that rates are in effect by the following January 1. The Public Service Commission may approve adjustments to the tariff only upon finding that the filed performance-based tariffs do not meet the requirements, or that the tariffs seek to recover imprudently incurred costs.

The Public Service Commission must use the specified standard to assess prudence. Once an electrical corporation's performance-based rate tariffs are approved, they must be updated annually, and the rates must not be adjusted without approval by the Public Service Commission. If, prior to becoming a participating electrical corporation, an electrical corporation's rates set in its most recently concluded general rate proceeding are not based on the average and excess methodology, the electrical corporation's revenue requirement under performance-based ratemaking must limit increases to customers in the large power service rate schedule to no more than the class cost of service. Electrical corporations must adhere to certain rate design requirements for its large power service rate schedule customers. After calculating the impact of large power service rate schedules, any difference in large power service customers' revenue determination must be allocated to all other customer classes equally.

ANNUAL UPDATE FILINGS (Section 393.1530)

On or before May 1 after the first year an electrical corporation elects to use performance-based ratemaking, and annually

thereafter, a participating electrical corporation must make an annual filing with the Public Service Commission to update cost inputs in order to establish performance-based rates for the upcoming rate year and must include a reconciliation of the cost of service, performance-related rate adjustments, an updated revenue requirement based upon the results of the revenue test set forth in this bill, an updated return on equity, and must be subject to the specified revenue requirement increase limitations. The annual update filing rates must take effect January 1 of the year after the filing has been made.

This bill sets forth guidelines for the Public Service Commission proceeding in which the Commission is reviewing a participating electrical corporation's annual update filing. In any annual update filing proceeding, the Commission must enter its order 210 days after the electrical corporation's filing, or December 1, with rates being effective on the first billing day of the calendar year after the calendar year in which the filing was made. The Public Service Commission must establish a procedural schedule for annual update filing proceedings and other testimony.

The rates approved by the Commission must be final upon a Commission ordering approval of updated rates, and the rates must be final and not subject to reexamination, provided a party is not prohibited from seeking judicial review in appellate court or a Public Service Commission rehearing. Performance-based rate tariffs approved in an annual update filing must provide for equal percentage changes in customer rates, with the exception of aluminum smelting facility customers.

YEAR FILING (Section 393.1535)

A participating electrical corporation must make a filing with the Public Service Commission within five years of initially filing a performance-based rate tariff that either proposes revenue neutral rate design changes or to leave rate design unchanged. If the electrical corporation proposes a revenue-neutral rate design change, the participating electrical corporation must rely on certain methodology for the allocation of fixed production related costs for customers taking service under the large power service rate schedule. If the electrical corporation proposes no change to rate design, it must report the results of an embedded class costs of service study. All changes must be implemented prospectively, and implemented at the same time new annual rates are made effective. If rate design changes are approved, but cannot be implemented due to termination on behalf of a participating electrical corporation or due to the expiration of these provisions, the Commission may implement rate design changes upon the conclusion of the electrical corporation's first general rate

proceeding occurring after termination. A participating electrical corporation may submit a depreciation schedule for approval at any time. If approved, revised depreciation rates must be used to set rates prospectively under the participating electrical corporation's annual update filing.

PERFORMANCE-BASED RATE LIMITATIONS (Section 393.1540)

Performance-based rates must be subject to both an annual increase limit and an average annual increase limit in determining revenue requirement increases for all customers, except aluminum smelting facility customers. Annual percentage increases must be calculated as specified. The limits must be filed by the participating electrical corporation annually with the Commission in its annual update filing. Annual increases must be limited to no more than 2% for the first two years in which performance-based rates are in effect, and thereafter the annual increase limit must be 4.75%.

The average annual increase over the duration of the participating electrical corporation performance-based rate tariff must not exceed 3.5%. For participating electrical corporations with less than 200,000 Missouri customers, net fuel and purchased power cannot be included in the calculation of the average annual rate increase limitation.

The electrical corporation must analyze, in its initial performance-based rate tariff and annual update filings, whether the revenue requirement increase proposed will exceed increase limitations. If the limitation will be exceeded, the participating electrical corporation must reduce the revenue requirement in an amount sufficient to bring any increase within the allowed limitations. Certain specified exclusions apply to the calculation of any annual revenue requirement increase limitation.

SUSPENSION OF RATE ADJUSTMENT MECHANISMS (Section 393.1545)

Any rate adjustment mechanism must be suspended upon an electrical corporation's initial performance-based rate tariff filing. However, such rate adjustment mechanism must survive until any costs and revenues accumulated prior to the electrical corporation's initial performance-based rate tariff filing are fully recovered over a transition period of not more than 24 months. After the transition period ends, any remaining costs or revenues must be included in the electrical corporation's annual update filing reconciliation balance. If an electrical corporation withdraws its performance-based rate tariffs, the accumulation periods must resume and must include any net fuel and purchase power cost that would have otherwise been accumulated, and must be reconciled to actual expenses incurred for the same period. Any

costs that were previously recovered under a rate adjustment mechanism must be 100% incorporated in performance-based rates.

Regulatory trackers adopted in the participating electrical corporation's most recently concluded general rate proceeding with respect to pension expense and other post-employment benefits must continue to be recognized for ratemaking purposes in performance-based ratemaking. All other regulatory trackers must be suspended with the electrical corporation's initial performance-based rate tariff filing. All costs and revenues that would have been included in such trackers must be included in the determination of the electrical corporation's cost of service under performance-based ratemaking. Upon termination of performance-based rate tariffs, such regulatory trackers and rate adjustment mechanisms must be automatically reactivated.

DEFERRAL AND AMORTIZATION (Section 393.1550)

A participating electrical corporation may petition the Public Service Commission to allow for deferral and amortization of any significant balance or amount over a period not to exceed five years to prevent unnecessary rate volatility; provided that the electrical corporation can show that such deferral and amortization is significant and would cause rate volatility. Any deferral or amortization must include carrying costs calculated as specified. The Public Service Commission must grant or deny the request within 120 days.

RULEMAKING, CORPORATE OWNERSHIP, CHANGES TO PERFORMANCE BASED RATE STRUCTURE, CONSUMER COMPLAINTS, NEW SERVICES, & COMMISSION AUTHORITY (Section 393.1555)

The ability of an electrical corporation to file a performance-based rate tariff must be allowed regardless of whether the Public Service Commission has enacted any rules relating to such rate tariffs. A failure by the Commission to rule on any tariff, rate, or regulatory relief requested within the timelines set forth must result in such tariff, rate, or relief becoming effective. If a participating electrical corporation is acquired or merged, or is subject to a change in ownership, performance-based rate tariffs must remain in effect. Further, nothing must restrict an individual consumer from filing a complaint with the Public Service Commission.

A participating electrical corporation must be permitted to propose changes to the performance-based rate structure, and participating electrical corporation must be permitted to request approval of a new service or tariff and associated rate schedules. The Public Service Commission must retain its existing authority to hold

public hearings seeking comment on any change in tariff rates and services proposed by a participating electrical corporation.

TERMINATION OF PERFORMANCE-BASED RATES (Section 393.1560)

If an electrical corporation ceases to be a participating electrical corporation, performance-based rates must remain in effect until new rates are established in a general rate proceeding. Upon terminating performance-based rates, an electrical corporation must record any outstanding regulatory asset or liability associated with a final reconciliation to be recovered or refunded over a 24 month period. A participating electrical corporation may voluntarily terminate its performance-based rates. However, if a participating electrical corporation does voluntary terminate such performance-based rates, the electrical corporation must no longer be permitted to file performance-based rate tariffs. Under any voluntary termination, or due to the expiration of these provisions, performance-based rates must remain in effect until new rates are established in a general rate proceeding, at which time rate adjustment mechanisms may be reinstated. Such reinstatement must also require the electrical corporation to make a general rate proceeding filing within 48 months.

This section must expire on December 1, 2031.

PUBLIC SERVICE COMMISSION REPORT (Section 393.1565)

The Public Service Commission must prepare and file with the General Assembly a report on the impact of performance based rates by December 31, 2023.

Most provisions of the 21st Century Grid Modernization and Security Act will expire on December 31, 2026.

ALUMINUM SMELTING FACILITIES (Section 393.1580)

Aluminum smelting facilities, and their respective electrical corporation service provider, may jointly submit an application to the Public Service Commission for approval of an aluminum smelter rate. Such application must include specified features, and an executed contract between the facility and its electrical corporation service provider. Within 30 days of filing the application, the Public Service Commission must issue an order directing the electrical corporation to file tariffs containing the rates, terms and condition set forth in the application, and authorizing the electrical corporation to create a regulatory asset for the difference between revenues that would have been collected under the previous rate and the new aluminum smelter rate.

Any aluminum smelting facility must only be eligible for an aluminum smelter rate if it maintains a number of full-time employees not less than 1 1/2 times its megawatt demand. If a facility becomes ineligible for such rate, they must be served at a rate that would otherwise be applicable to a customer of its size and load characteristics.

This section will expire on December 31, 2026.

This bill contains an emergency clause and a nonseverability clause for certain sections.